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POSTINO ARCEL WARE

FILED

OCT 22 2015

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
BY  DEPUTY CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

POSTINO ARCEL WARE,

Defendant.

No. Cr. S 03-186 MCE

**STIPULATED MOTION AND ORDER TO
REDUCE SENTENCE PURSUANT TO 18
U.S.C. § 3582(c)(2)**

RETROACTIVE DRUGS-MINUS-TWO
REDUCTION CASE

Judge: Honorable MORRISON C. ENGLAND, JR.

Defendant, POSTINO ARCEL WARE, by and through his attorney, Assistant Federal Defender Hannah R. Labaree, and plaintiff, UNITED STATES OF AMERICA, by and through its counsel, Assistant U.S. Attorney Jason Hitt, hereby stipulate as follows:

1. Pursuant to 18 U.S.C. § 3582(c)(2), this Court may reduce the term of imprisonment in the case of a defendant who has been sentenced to a term of imprisonment based on a sentencing range that has subsequently been lowered by the Sentencing Commission pursuant to 28 U.S.C. § 994(o);

2. On September 14, 2004, this Court sentenced Mr. Ware to a term of 188 months imprisonment;

3. His total offense level was 32, his criminal history category was V, and the resulting guideline range was 188 to 235 months;

1 4. The sentencing range applicable to Mr. Ware was subsequently lowered by the
2 United States Sentencing Commission in retroactive Amendment 706, in 2008, and retroactive
3 Amendment 750, in 2011. *See* U.S.S.G. § 1B1.10(d) (listing retroactive amendments);

4 5. The sentencing range applicable to Mr. Ware was also lowered by the Sentencing
5 Commission in Amendment 782, made retroactive on July 18, 2014, *see* 79 Fed. Reg. 44,973;

6 6. By operation of three retroactive Amendments, Mr. Ware's total offense level has
7 been reduced from 32 to 24, and his amended guideline range is 92 to 115 months;

8 7. The parties request the Court enter the order lodged herewith reducing Mr.
9 Ware's term of imprisonment to 185 months.

10 Respectfully submitted,

11 Dated: October 13, 2015

Dated: October 13, 2015

12 BENJAMIN B. WAGNER
13 United States Attorney

HEATHER E. WILLIAMS
Federal Defender

14 /s/ Jason Hitt
15 JASON HITT
Assistant U.S. Attorney

/s/ Hannah R. Labaree
HANNAH R. LABAREE
Assistant Federal Defender

16 Attorney for Plaintiff
17 UNITED STATES OF AMERICA

Attorney for Defendant
POSTINO ARCEL WARE

ORDER

This matter came before the Court on the stipulated motion of the defendant for reduction of sentence pursuant to 18 U.S.C. § 3582(c)(2).

The parties agree, and the Court finds, that Mr. Ware is entitled to the benefit of Amendments 706, 750, and 782, which collectively reduce the total offense level from 32 to 24, resulting in an amended guideline range of 92 to 115 months.

IT IS HEREBY ORDERED that the term of imprisonment imposed in September 2004 is reduced to a term of 185 months.

IT IS FURTHER ORDERED that all other terms and provisions of the original judgment remain in effect. The clerk shall forthwith prepare an amended judgment reflecting the above reduction in sentence, and shall serve certified copies of the amended judgment on the United States Bureau of Prisons and the United States Probation Office.

Unless otherwise ordered, Mr. Ware shall report to the United States Probation Office within seventy-two hours after his release.

Dated: October 22, 2015


HONORABLE MORRISON C. ENGLAND, JR.
Chief United States District Judge

By: John A. Mendez, U.S. District Court Judge